## "A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: August 22, 2005

FILE NO.: #2126128

FROM:

JOHNNY G. JURADO, COMMANDER

ERIC B. SMITH, COMMANDER

KENNETH J. BRAZILE, COMMANDER ROBERT L. BINKLEY, COMMANDER TO: KARYN MANNIS, CAPTAIN

INTERNAL AFFAIRS BUREAU

SUBJECT:

**EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:** 

at the scene by paramedics. Neither deputy was injured.

**DEPUTY MacDONALD#** 

**DEPUTY GEISBAUER #** 

On August 13, 2004, Deputies MacDonald and Geisbauer, Unit 216E, were with Unit 217E PM at the intersection of Holmes Avenue and Slauson Avenue when they all heard several gunshots coming from the north. Both units drove around to try and determine the source of the gunfire.

Unit 217E stopped to detain two males and requested Unit 216E to assist them. During this contact, all four deputies heard an additional two rounds being fired from the north. They checked the area and saw a vehicle with no license plate. The vehicle was being driven by a lone male. After the driver looked at them, he rapidly accelerated away. They attempted a traffic stop but the vehicle continued to accelerate. They saw the vehicle slow as Suspect Macias opened the driver's door and exited on the run, as he left the moving vehicle. The deputies stopped behind the suspect vehicle and exited. Deputy MacDonald saw the suspect facing him with a gun in his hands. Fearing the suspect was going to shoot him, Deputy MacDonald drew his duty weapon and began firing at the suspect. He continued to fire while simultaneously running toward a parked vehicle for cover. Deputy Geisbauer exited the passenger's side of the radio car and heard the shooting. He believed that his partner may be involved in an exchange of gunfire and saw the suspect running. The suspect turned back toward Deputy Geisbauer and pointed the gun in his direction. Believing that the suspect was going to shoot him, Deputy Geisbauer began firing at him. The suspect fell to the sidewalk after Deputy Geisbauer shot at him. Suspect Macias

On August 4, 2005, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP §§ 3-01/025.00, Use of Force; MMP § 3-01/025.30, Use of Firearms and Deadly Force, and 3-01/025.10, Unreasonable Force. Concerning:

sustained a gunshot wound to the head and one to the lower left torso. He was pronounced dead

MMP  $\S$  3-01/025.00, Use of Force, MMP  $\S$  3-01/025.30, Use of Firearms and Deadly Force, 3-01/025.10, and MMP  $\S$  3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputies MacDonald and Geisbauer was reasonable and necessary and in compliance with Department policy.

Johnny G. Jurado, Commander

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  - Supplemental Reports Revealant to Shooting
- B. Los Angeles Police Department Report
- C. Map Quest Print Out of Streets, Showing approximate Location of Shooting
- D. Scientific Services Bureau Crime Scene Drawing
- E. Los Angeles County District Attorney's Letter of Opinion
- F. Criminal History and Photograph of Suspect Macias.

### MISCELLANEOUS DOCUMENTS

Century Station PM In-Service, 08-13-04

## LASD HOMICIDE SHOOTING BOOK

# Los Angeles County Sheriff's Department Officer Involved Shooting

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3						retrience.			
Report Date:	08-13-0	Bureau/Statio	on/Facility:	Century	Sheriff S	Station	Admin.	Invest.?	Hit?
				Incident Inform	ation	4 F.			
URN:	004-13	726-2199-013		Date:	08-13-	-2004		Time:	2156
City or Station: Location: 1724 Los A		Century Station Street		code violation	. The su	spect ex ointed it a	ted his still	movin	spect for a vehicle g vehicle with a uties. Deputies
Location Type (circle one or measurement of the circle one or measurement of the circle one or measurement of the circle one of the circle of	>	Lighting (circle only on Darkness) Daylight Other Street Lights  Weather (circle only of Clear) Cloudy Fog Rain  Distance: 10 feet  Total # of Shots Fired by	10]:	Incident Type (circ. Accidental Armed Person Fleeing Suspect Foot Pursuit Gun Take Away Moving Vehicle Sniper/Ambush Startie Struggle Involved Traffic Stop Unarmed Person Unintentional Vehicle Pursuit Warrant Service	le one or m		Initiat Arm Call Obs One Oit Sau Two	servation a Person er arch War o Person Activity tective nate Tran	Unit rant Unit (circle only one):
16 & 11		Unknown		Other:			Aero	Unit?	Canine Unit?
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Employee#	Last N	GUILLEN	Firet	KAMAL Name ANTONIA Name	M.L.	ShiftTime ( ShiftTime (	PM Day circle only one): PM Day circle only one):	Regu ShiftT Regu ShiftT	ype (circle only one):  Net Overtime Off Duty ype (circle only one):  Nat Overtime Off Duty ype (circle only one):
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Last Name		ICER	4	1	First	Name	_		M.I.
Street Address LAPD- CITY		NG TASK FORCE	City	Los Angeles	Zip C	ode	Wo	rk Ph	Home Ph
Last Name				200 / algoles	First	Name			M.L.
Street Address			City		Zip C	ode	Wor	rk Ph	Home Ph
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Employee #	Last Name	ACKWELL	First Na	GARY	L.	(circle one	nt during shoot or more):	ing	Involved in shooting
		ARRIAGA		MICHAEL	S.	On Dut	y_> It during shooti	ng	Witness to shooting Involved in shooting
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Employee #	Last Na					irst Name			M.I.
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Employee #	Last Na	me		Watch Commar	_	irst Name	-	2000	M.I.
			Babbit			- or right	John		C.

	PSTO Use Only	
SH #		

## Officer Involved Shooting

URN: 004-13726-2199-013

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					Rollout Information	1 - ~		7	920	
Arrival Date	08-13-	04	Arrival Time	0030	Date Submitted	-29-05	Date of Recommendation			
Employee #	La	st Name	HARRIS			First Name C	OHN	1	M.I	W.
Employee #			SMITH			First NamuRI	CHARD	1	M.F	G.
Employee #	į,a	st Name	SENO			First Nam BE	NNETT	1	M.I	W.
				Shoo	ting / Force Inform	nation			7	

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## FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH	ZZ	45			NN	
S#1	E#1	FH	ZZ	45			NN	
E#1	S#1	FH	BR	9	Y	Y	GS	ВК
E#2	S#1	FH	BR	9	Y	Υ	GS	BK
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								-

## Officer Involved Shooting Involved Employee Information

URN: 004-13726-2199-013

				Involved Employee			
Employee		Last Name GEISBAU	JER		First Name ANTH	ONV	M.I.
Sex:	Race.	Rank		Unit Assignment:	Work Assignment (Unit		
M	Cauc	Deputy		FOR II, Century Station		Patrol, 216-E	
ShiftTime (c	PM Day	ShiftType (circle only one) Regular Overtime	): Off Duty	Intoxication/Drug Usage?	Substance Used:		
Hospital Ad		Hospital Name:		Coroner Case?	Coroner Case #		Interviewed?
	7-8 Height: 5	Duty Time (hrs): Weight: 210	Plain C	(clinite anly one): Clothes no Vest	Other Factors:		
Range Quali	fication Date:		PPC Q	valification Date:	Laser Training	Date:	
	h Weapon Used	Patrol Certificati	tion?	Cortification Unit	Prior Shootings?	Number of Prior S	hootings:
Field Trainin	g Officer Emp#	ast Name			First Name		M.J.
Field Trainin	g Officer Emp #	ast Name			First Name		M.I.
Employee #		Last Name MAC DON	NALD		First Name JOHN		M.I.
Sex:	Race: Cauc	Rank Deputy	,	Unit Assignment: FOR II, Century Station	Work Assignment (Unit	#, Module, etc.): Patrol, 216-E	
	Day	ShiftType (circle only one): Regular Overtime O		Intoxication/Drug Usage?	Substance Used:		
Hospital Ad	_	Hospital Name: Duty Time (hrs):	Clothing	Coroner Case?	Coroner Case #		Interviewed?
Hrs of sleep Age.	prior to shooting:		Plain C Plain C Raid Ji	Coroner Case?  (circle only one): Raid Jacket w/ Vest Rollins w/ Vest Uniform no Vest adification Date:		Date;	
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## Officer Involved Shooting Suspect Information

URN: 004-13726-2199-013

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		5	nshaer	Information		
S 1	Last Name MACIAS			First Name GERAI	RDO	M.L.
	AKA Last Name			First Name		M.3.
	MACIAS Sex: Race: History	Street Address		ARNOI	State & Zin	Code-
	Work Phone:	Home Phone:	Social Se		Driver's License #:	
	Age: 24 D.O.B. 12-20-80	Height: 5, 09 <sup>N</sup> Weight 190	FBI#		CII#	
	Booking # Not booked	Primary Charge: 245(D)(	1) PC	Secondary Charge:		
	Coroner Case?	Coroner Case # 2004-06140		Intexication/Drug Usage?	Substance Used: Meth, Cocaine& Alco	ohol
	Armed?	Apprehended?		Mental Illness?	Criminal History's	
	Vehicle Make Ford ( Ca	. Lic#		Model: Bronco	Year. 1986	
5	Last Name			First Name		M.I.
	AKA Last Name			First Name		M.I.
	Sex: Race:	Street Address:		City	State & Zip	Code:
	Work Phone:	Home Phone:	Social Se	ocurity #:	Driver's License #:	
	Age: D.O.B.	Height: Weight:	FBI#		CII#	
	Booking #	Primary Charge:		Secondary Charge:		
	Coroner Case?	Coroner Case #		Intexication/Drug Usage?	Substance Used:	
				11		
	Armad?	Apprehended?		Mental Illness?	Cominal History/	
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	Vehicle Make	Apprehended?			Year:	M.i.
S		Apprehended?		Model:	Year:	M.i.
s	Vehicle Make Lest Name AKA Last Name			Model:  First Name  First Name	Year.	M.I.
s	Vehicle Make  Last Name  AKA Last Name  Sex: Race:	Street Address:	Social Se	Model:  First Name  First Name  City	Year: State & Zip	M.I.
S	Vehicle Make  Last Name  AKA Last Name  Sex: Race:  Work Phone:	Street Address: Home Phone:	Social Se	Model:  First Name  First Name  City	Year: State & Zip Driver's License #:	M.I.
<u>s_</u>	Vehicle Make  Lest Name  AKA Last Name  Sex: Race:  Work Phone:  Age: D.O.B.	Street Address: Home Phone: Height: Weight:	Social Se	Model:  First Name  First Name  City	Year: State & Zip	M.I.
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	Vehicle Make  Lest Name  AKA Last Name  Sex: Race:  Work Phone:  Age: 0.O.B.  Booking #  Coroner Case?	Street Address: Home Phone: Height: Weight: Primary Charge: Coroner Case #		Model:  First Name  First Name  City  curity #:  Secondary Charge:  Intoxication/Drug Usage?  Mental Illness?	Year: State & Zip Driver's License #: Cil # Substance Used: Criminal History?	M.I.
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	Vehicle Make  Leet Name  AKA Last Name  Sex: Race:  Work Phone:  Age: D.O.B.  Booking #  Coroner Case?  Armed?  Vehicle Make  Last Name  AKA Last Name  Sex: Race:  Work Phone:	Street Address: Home Phone: Height: Weight: Primary Charge: Coroner Case # Apprehended?	FBI #	Model:  First Name  First Name  City  Secondary Charge:  Intoxication/Drug Usage?  Mental Illness?  Model:  First Name  First Name  City	Year:  State & Zip  Driver's License #:  Cil #  Substance Used:  Criminal History?  Year:  State & Zip	M.I.  M.I.  M.I.
	Vehicle Make  Last Name  Sex: Race:  Work Phone:  Age: D.O.B.  Booking #  Coroner Case?  Vehicle Make  Last Name  AKA Last Name  Sex: Race:  Work Phone:  Age: D.O.B.  Booking #	Street Address: Home Phone: Height: Weight: Primary Charge: Coroner Case # Apprehended?  Street Address: Home Phone: Height: Weight:	FBI #	First Name  City  Secondary Charge:  Intoxication/Drug Usage?  Mental Illness?  Model:  First Name  City  Secondary Charge:	Year:  State & Zip  Driver's License #:  Cil #  Substance Used:  Criminal History?  Year:  State & Zip	M.I.  M.I.  M.I.
S	Vehicle Make  Last Name  AKA Last Name  Sex: Race:  Work Phone:  Age: D.O.B.  Booking #  Coroner Case?  Armed?  Vehicle Make  Last Name  AKA Last Name  Sex: Race:  Work Phone:  Age: D.O.B.	Street Address: Home Phone: Height: Weight: Primary Charge: Coroner Case # Apprehended?  Street Address: Home Phone: Height: Weight: Primary Charge:	FBI #	First Name  First Name  City  Secondary Charge:  Intoxication/Drug Usage?  Mental Illness?  Model:  First Name  First Name  City  scurity #:	Year:  State & Zip  Driver's License #:  Cil #  Substance Used:  Criminal History?  Year:  State & Zip  Driver's License #:  Cil #	M.I.  M.I.  M.I.



# LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE . Director

December 16, 2004

Captain Raymond Peavy
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

Dear Captain Peavy:

RE: J.S.I.D. File No. 04-0679

L.A.S.D. File No. 004-13726-2199-013

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 13, 2004, fatal shooting of Gerardo Macias by Los Angeles County Sheriff's (LASD) Deputies Anthony Geisbauer and John MacDonald. We find that the deputies acted in lawful self-defense.

The following analysis is based on reports prepared by detectives from the Los Angeles County Sheriff's Department, Homicide Bureau, submitted to this office on November 4, 2004. The District Attorney Response Team, comprised of Deputy District Attorney Kraig St. Pierre and Senior Investigator responded to the scene at approximately 1 a.m. and were given a briefing of the circumstances surrounding the shooting and a walk-though of the scene. Deputies Geisbauer and MacDonald gave voluntary statements to investigators. Their statements were considered as part of this analysis.

#### **FACTUAL ANALYSIS**

On Friday, August 13, 2004, LASD Deputies Anthony Geisbauer and John MacDonald were patrolling in the area of Holmes and Slauson Avenues in the City of Los Angeles when they heard the sound of gunfire and immediately began to search for its source. As they searched the area west of Long Beach Avenue and 48<sup>th</sup> Place, the driver, Deputy MacDonald, saw a 1986 dark blue Ford Bronco stopped at a traffic signal facing east. The Bronco had expired registration tags and the deputies decided to conduct a traffic stop. They turned their marked patrol car around and pursued the Bronco which had

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proceeded under a green light and turned northbound onto Long Beach Avenue. Deputy MacDonald activated the car's forward-facing red lights, its spotlight and, briefly, the siren. The Bronco did not stop but turned eastbound onto East 47<sup>th</sup> Street with the deputies close behind.

When Deputy MacDonald activated the forward-facing red lights the Bronco appeared to accelerate as it made the turn onto East 47<sup>th</sup> Place causing its rear end to almost strike the north curb. The driver, later identified as Gerardo Macias, a 38<sup>th</sup> Street gang member with the monikers "Diablo" and "Evil," regained control of the Bronco, guided it back into the eastbound lane of traffic, and slowed to approximately five miles per hour. With the Bronco still moving the driver door opened and Macias got out – the Bronco rolled several more feet until it struck a tree next at the south curb of East 47<sup>th</sup> Place. Macias held a .45 caliber AMT semi-automatic handgun in his right hand.

Deputy MacDonald stopped the patrol car approximately ten feet behind where Gerardo Macias exited slightly offset to the left of the driver side of the Bronco. Macias faced northwest – almost directly facing Deputy MacDonald – and both deputies could see the gun in his hand as they exited their car. According to Deputy MacDonald, Macias did not initially appear to have complete control of the weapon. Macias momentarily turned his back on the deputies and, upon turning back, held the gun chest-high and pointed at Deputy MacDonald. MacDonald immediately began to fire his department-issued 9mm Beretta at Macias as he ran northeast across East 47<sup>th</sup> Place to gain cover behind a parked car. His last recollections are of Macias running to the south sidewalk of East 47<sup>th</sup> Place where, according to MacDonald, Macias must have been hit because he fell to the ground.

Deputy Geisbauer saw Gerardo Macias exit the Bronco with the gun in hand. Within moments Macias began to run eastward down East 47<sup>th</sup> Place and, according to Geisbauer, Deputy MacDonald gave chase. He next heard the sound of gunfire and was uncertain of who was firing at whom. Macias was approximately twenty-five feet east of Deputy Geisbauer on the south sidewalk of East 47<sup>th</sup> Place when he turned his upper body and pointed the gun at him. Geisbauer fired several rounds at Macias who, seconds later, collapsed to the sidewalk in front of 1724 East 47<sup>th</sup> Place. Macias was pronounced dead at the scene.

On August 16, 2004, at approximately 9 a.m., Los Angeles County Deputy Medical Examiner Ajay Panchal, M.D., performed an autopsy on the body of Gerardo Macias. Dr. Panchal determined the manner of death to be multiple gunshot wounds<sup>1</sup>. As part of the autopsy, a toxicological analysis of Gerardo Macias's blood was performed. Macias's blood was found to contain small traces of alcohol, cocaine and methamphetamine. When Macias's body was searched at the scene a small quantity of a white powdery substance was located in his pants pocket. This item was not chemically analyzed.

<sup>&</sup>lt;sup>1</sup> Although two expended bullets were recovered during the autopsy of Gerardo Macias, no ballistic analysis was performed in order to determine which deputy, or both, fired the fatal shot(s).

Gerardo Macias's criminal record includes a

#### CONCLUSION

The use of deadly force in self-defense or in the defense of another is permitted if it reasonably appears to the person claiming the right of self-defense, or the defense of another, that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal.App.3d 731

When Gerardo Macias pointed a gun at Deputies MacDonald and Geisbauer, they were lawfully entitled to defend themselves with deadly force. Their respective decisions to do so were both reasonable and lawful.

Having concluded that Deputies MacDonald and Geisbauer were acting in lawful selfdefense when they shot and killed Gerardo Macias, our file is now closed and we will take no further action in the matter.

Very truly yours,

STEVE COOLEY/

District Attorney

By

KRAIG ST. PIERRRE Deputy District Attorney

(213) 974-5280

e: Deputy Anthony Geisbauer, #

Deputy John MacDonald, #